HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1508 OF 2005.

Mr. Surinder Sodhi @ Shammi
Ramchandra Sodhi. ...Applicant.

V/s.

State of Maharashtra. ...Respondent

Shri Subhash Kanase i/n A. Majeed Memon, for applicant.

Shri V.B.Konde-Deshmukh, APP for respondent.

CORAM: A.M.KHANWILKAR,J
DATE : APRIL 20, 2005

P.C. :-

1. Heard the counsel for the parties.

2. This is second bail application preferred by the present applicant. First bail application was dismissed as not pressed, by this court on 19th July, 2004. The counsel for the applicant at the outset submits that he was not arguing the case on merits but only invoking the indulgence of this court on parity alongwith the co-accused Mrs. Asha Khera.

3. This application is accordingly, filed on the assertion that there are changed circumstances. Reliance is placed on the order passed by the Apex

Court in the case of co-accused Mrs. Asha Alok @ Babu Khera dated 1st October, 2004. The said accused has been released on bail by the Apex Court on the sole consideration that she was in custody since 21/8/2003 and is charged because of allegations of being party to criminal conspiracy. The Apex court has then observed that the final report was filed on 15th March, 2004 and the trial has already started. In that background, the Apex Court released the co-accused Mrs. Asha Khera on bail on certain conditions. It is contended on behalf of the applicant that the applicant is entitled to bail on parity on the same reasons which weighed with the Apex court in case of co-accused Mrs. Asha Khera.

5. Ordinarily, if the applicant was similarly placed, the court would be bound to accept his request for bail on parity. However, I am inclined to accept the opposition registered by the respondent that the applicant cannot be treated on par with co-accused Asha Khera . In so far as the applicant is concerned, several cases have been registered against him and there are antecedents of similar offences committed by him in the past. Indeed, it is argued on behalf of the applicant that in atleast 6 offences out of 12 offences recorded in the chart, the applicant has been acquitted. In so far as, other four offences are

concerned, the applicant is granted bail by the concerned courts. The last offence registered against the applicant while he was in custody, it is suggested on behalf of the applicant that the same is out of the personal vendetta of Kalyan Jail Superintendent.

5. Assuming that the said offence was to be ignored, the applicant has been named as accused in other offences registered prior to the present offences. In other words, the applicant has committed present offence while on bail, in relation to the earlier offence. That can be good consideration for not applying parity to the applicant as contended.

6. The learned Public Prosecutor has placed reliance on the decision of the Apex Court reported in **2005 AIR SCW 536, in case of Kalyan Chandra Sarkar etc. V/s. Rajesh Ranjan @ Pappu Yadav & Anr.** to support his submission that successive bail application preferred by the applicant ought not to be entertained and also, in view of the antecedents against the applicant and as there is every possibility of the applicant indulging in similar offence, if released on bail, can be good consideration for rejecting the request for bail. Besides the trial is already in progress and 14 witnesses have been examined. The learned APP on

instructions states that the trial has been directed to be conducted on day to day basis and the prosecution will examine all the remaining witnesses and conclude the recording of evidence, hopefully within three months from today. Taking overall view of the matter, not case for bail.

7. Hence rejected.